

## Administrative Procedures – Proposed Coversheet

### Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this proposed filing will be considered complete upon the submission and acceptance of the following components:

- Proposed Rule Coversheet
- Adopting Page
- Economic Impact Statement
- Public Input Statement
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of the proposed coversheet form will be used to generate a notice of rulemaking in the newspapers of record. Publication of notices will be charged back to the promulgating agency based on the word count of the notices.

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Rule Title: Inmate Mail**

, on 2/14/18  
(signature) (date)

Printed Name and Title:

Martha Maksym, Deputy Secretary of Human Services for Al Gobeille, Secretary, Agency of Human Services

RECEIVED BY: \_\_\_\_\_

- ☐ Proposed Rule Coversheet
- ☐ Adopting Page
- ☐ Economic Impact Statement
- ☐ Public Input Statement
- ☐ Scientific Information Statement (if applicable)
- ☐ Incorporated by Reference Statement (if applicable)
- ☐ Clean text of the rule (Amended text without annotation)
- ☐ Annotated text (Clearly marking changes from previous rule)
- ☐ ICAR Approval received by E-mail.

## 1. TITLE OF RULE FILING:

Inmate Mail

## 2. ADOPTING AGENCY:

Agency of Human Services - Department of Corrections

## 3. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Matthew Nault

Agency: Agency of Human Services - Department of Corrections

Mailing Address: 280 State Drive, Waterbury, VT 05671-2000

Telephone: 802 241 - 0068 Fax: 802 241 - 0020

E-Mail: matthew.nault@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<http://corrections.vermont.gov/about/policies>

## 4. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Christine Cowart

Agency: Agency of Human Services - Department of Corrections

Mailing Address: 280 State Drive, Waterbury, VT 05671-2000

Telephone: 802 477 - 3850 Fax: 802 241 - 0020

E-Mail: christine.cowart@vermont.gov

## 5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

## 6. LEGAL AUTHORITY / ENABLING LEGISLATION:

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

28 V.S.A. § 102(c)(1)

**7. CONCISE SUMMARY (150 WORDS OR LESS):**

It is the policy of the Vermont Department of Corrections (DOC) to encourage and permit inmates to correspond with family, friends, officials, and other significant community contacts. The DOC recognizes that the maintenance of pro-social relationships with family, friends, officials, and other significant community contacts can help assist in an inmate's community reintegration. As a result, the DOC shall only limit an inmate's access to mail that interferes with the safety, security, or order of the facility, or that contains nudity or sexually explicitly material.

This rule sets forth the DOC's guidelines concerning inmate mail, including: its inspection, privileged correspondence, inmate-to-inmate correspondence, and negative contact lists. The rule also addresses the provision of writing materials and postage for indigent inmates and the disposition of funds received through inmate mail.

**8. EXPLANATION OF WHY THE RULE IS NECESSARY:**

Under the First Amendment, inmates have a right to send and receive mail. The DOC may only restrict mail that is determined to constitute a threat to the safety, security, or order of the facility, or that contains nudity or sexually explicitly material. This rule establishes guidelines for restricting inmate mail.

**9. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:**

Inmates in the custody of the Department of Corrections;

Individuals who wish to correspond with inmates in the custody of the Department of Corrections;

Individuals who wish to restrict correspondence from inmates in the custody of the Department of Corrections;

The Department of Corrections

**10. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):**

It is anticipated that this Rule will not have an impact on the Department's budget.

11. A HEARING IS SCHEDULED .

12. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date: 4/12/2018

Time: 02:00 PM

Street Address: 280 State Drive, Waterbury, VT

Zip Code: 05671-2000

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

13. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

4/19/2018

14. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Mail

Inmate

Prisoner

No Contact

Correctional Facilities

Indigent

Correspondence

# Administrative Procedures – Adopting Page

## Instructions:

This form must be completed for each filing made during the rulemaking process:

- Proposed Rule Filing
- Final Proposed Filing
- Adopted Rule Filing
- Emergency Rule Filing

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Inmate Mail

2. ADOPTING AGENCY:

Agency of Human Services - Department of Corrections

3. AGENCY REFERENCE NUMBER, IF ANY:

4. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

5. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND LAST DATE OF ADOPTION FOR THE EXISTING RULE*):

# Administrative Procedures – Economic Impact Statement

## **Instructions:**

In completing the economic impact statement, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule. This form must be completed for the following filings made during the rulemaking process:

- Proposed Rule Filing
- Final Proposed Filing
- Adopted Rule Filing
- Emergency Rule Filing

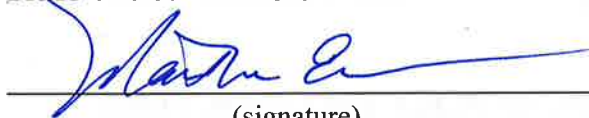
Rules affecting or regulating public education and public schools must include cost implications to local school districts and taxpayers in the impact statement (see 3 V.S.A. § 832b for details).

The economic impact statement also contains a section relating to the impact of the rule on greenhouse gases. Agencies are required to explain how the rule has been crafted to reduce the extent to which greenhouse gases are emitted (see 3 V.S.A. § 838(c)(4) for details).

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person.

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I conclude that this rule is the most appropriate method of achieving the regulatory purpose. In support of this conclusion I have attached all findings required by 3 V.S.A. §§ 832a, 832b, and 838(c) for the filing of the rule entitled:

**Rule Title: Inmate Mail**

 \_\_\_\_\_, on 2/14/18  
(signature) (date)

**Printed Name and Title:**

Martha Maksym, Deputy Secretary of Human Services for Al  
Gobeille, Secretary, Agency of Human Services

*BE AS SPECIFIC AS POSSIBLE IN THE COMPLETION OF THIS FORM, GIVING FULL INFORMATION ON YOUR ASSUMPTIONS, DATABASES, AND ATTEMPTS TO GATHER OTHER INFORMATION ON THE NATURE OF THE COSTS AND BENEFITS INVOLVED. COSTS AND BENEFITS CAN INCLUDE ANY TANGIBLE OR INTANGIBLE ENTITIES OR FORCES WHICH WILL MAKE AN IMPACT ON LIFE WITHOUT THIS RULE.*

**1. TITLE OF RULE FILING:**

Inmate Mail

**2. ADOPTING AGENCY:**

Agency of Human Services - Department of Corrections

**3. CATEGORY OF AFFECTED PARTIES:**

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

Inmates in the custody of the Department of Corrections;

Individuals who wish to correspond with inmates in the custody of the Department of Corrections;

Individuals who wish to restrict correspondence from inmates in the custody of the Department of Corrections;

The Department of Corrections

**4. IMPACT ON SCHOOLS:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS:*

No Impact

**5. COMPARISON:**

*COMPARE THE ECONOMIC IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

As there are not significant changes to the guidelines or process regarding inmate mail, there is no economic impact related to this proposed rule, alternatives to the rule, or no rule on the subject.

**6. FLEXIBILITY STATEMENT:**



*COMPARE THE BURDEN IMPOSED ON SMALL BUSINESS BY COMPLIANCE WITH THE RULE TO THE BURDEN WHICH WOULD BE IMPOSED BY ALTERNATIVES CONSIDERED IN 3 V.S.A. § 832a:*

No Impact

**7. GREENHOUSE GAS IMPACT: EXPLAIN HOW THE RULE WAS CRAFTED TO REDUCE THE EXTENT TO WHICH GREENHOUSE GASES ARE EMITTED, EITHER DIRECTLY OR INDIRECTLY, FROM THE FOLLOWING SECTORS OF ACTIVITIES:**

**a. TRANSPORTATION —**

*IMPACTS BASED ON THE TRANSPORTATION OF PEOPLE OR PRODUCTS (e.g., “THE RULE HAS PROVISIONS FOR CONFERENCE CALLS INSTEAD OF TRAVEL TO MEETINGS” OR “LOCAL PRODUCTS ARE PREFERENTIALLY PURCHASED TO REDUCE SHIPPING DISTANCE.”):*

No Impact

**b. LAND USE AND DEVELOPMENT —**

*IMPACTS BASED ON LAND USE AND DEVELOPMENT, FORESTRY, AGRICULTURE ETC. (e.g., “THE RULE WILL RESULT IN ENHANCED, HIGHER DENSITY DOWNTOWN DEVELOPMENT.” OR “THE RULE MAINTAINS OPEN SPACE, FORESTED LAND AND /OR AGRICULTURAL LAND.”):*

No Impact

**c. BUILDING INFRASTRUCTURE —**

*IMPACTS BASED ON THE HEATING, COOLING AND ELECTRICITY CONSUMPTION NEEDS (e.g., “THE RULE PROMOTES WEATHERIZATION TO REDUCE BUILDING HEATING AND COOLING DEMANDS.” OR “THE PURCHASE AND USE OF EFFICIENT ENERGY STAR APPLIANCES IS REQUIRED TO REDUCE ELECTRICITY CONSUMPTION.”):*

No Impact

**d. WASTE GENERATION / REDUCTION —**

*IMPACTS BASED ON THE GENERATION OF WASTE OR THE REDUCTION, REUSE, AND RECYCLING OPPORTUNITIES AVAILABLE (e.g., “THE RULE WILL RESULT IN REUSE OF PACKING MATERIALS.” OR “AS A RESULT OF THE RULE, FOOD AND OTHER ORGANIC WASTE WILL BE COMPOSTED OR DIVERTED TO A ‘METHANE TO ENERGY PROJECT’.”):*

No Impact

**e. OTHER —**

*IMPACTS BASED ON OTHER CRITERIA NOT PREVIOUSLY LISTED:*

No Impact

# Administrative Procedures – Public Input Statement

## Instructions:

In completing the public input statement, an agency describes what it did do, or will do to maximize the involvement of the public in the development of the rule. This form must be completed for the following filings made during the rulemaking process:

- Proposed Rule Filing
- Final Proposed Filing
- Adopted Rule Filing
- Emergency Rule Filing

1. TITLE OF RULE FILING:

Inmate Mail

2. ADOPTING AGENCY:

Agency of Human Services - Department of Corrections

3. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

The Vermont Department of Corrections (DOC) will hold a public hearing and post notice of the proposed rule on its website, for feedback from the public.

A printed notice of the proposed rule will be kept in all the DOC law libraries and made available to inmates upon request to the Inmate Law Librarian, Inmate Legal Assistant, or any other law library staff. A comment form will also be made available to inmates, on which they may submit comments to law library staff. Each DOC correctional facility will make an announcement to all inmates that a copy of the notice of the proposed rule is available to them, in the law library for review and comment.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

DOC will ensure that staff and inmates have the opportunity to review and comment on the proposed rule if they wish to do so. DOC will also notify the Prisoners' Rights Office, in the Vermont Office of the Defender General, of the proposed rule, so the Office may also review and comment on the proposal.

280 STATE DRIVE  
WATERBURY, VERMONT 05671-1000



OFFICE OF THE SECRETARY  
TEL: (802) 241-0440  
FAX: (802) 241-0450

AL GOBEILLE, SECRETARY  
MARTHA MAKSYM, DEPUTY SECRETARY

STATE OF VERMONT  
AGENCY OF HUMAN SERVICES


**MEMORANDUM**

**TO:** Jim Condos, Secretary of State

**FROM:** Al Gobeille, Secretary, Agency of Human Services

**DATE:** Tuesday, January 17, 2017

**SUBJECT:** Signatory Authority for Purposes of Authorizing Administrative Rules



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I hereby designate Deputy Secretary of Human Services Martha Maksym as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedure Act, 3 V.S.A. § 801 et seq.

Cc: Martha Maksym

## INMATE MAIL

### Authority:

28 V.S.A. § 102(c)(1)

### Rule:

It is the policy of the Vermont Department of Corrections (DOC) to encourage and permit inmates to correspond with family, friends, officials, and other significant community contacts. The DOC recognizes that the maintenance of pro-social relationships with family, friends, officials, and other significant community contacts can assist an inmate's reintegration into the community. As a result, the DOC shall only limit an inmate's access to mail that interferes with the safety, security, or order of the facility, or that contains nudity or sexually explicit material.

### DEFINITIONS

As used in this Rule, "indigent inmate" means an inmate whose combined balances of his or her facility account and any other accessible accounts are ten dollars or less at all times during the thirty days preceding the date on which the inmate submits a request for writing materials, postage, or any State-issued property to the Facility Business Manager or designee. Any inmate who refuses available work, for which they would be paid, although they are physically able and are permitted to work by virtue of their housing status, is not indigent for the purpose of this Rule.

As used in this Rule, "nudity" means a pictorial depiction where genitalia, or the areola or nipple of female breasts, are exposed.

As used in this Rule, "privileged correspondence" means correspondence concerning a legal matter or official government business involving an inmate, sent to or received by that inmate and any of the following persons or entities at their official business address:

- Any elected or appointed American federal, state, or local government official, department or agency, other than DOC;
- Any elected or appointed official, department or agency of a Native American tribe having federal recognition or of a nation of which the inmate is a citizen;
- An attorney, approved legal representative, or representative employed or supervised by an attorney;
- Any legal services organization, such as American Civil Liberties Union (ACLU), Human Rights Commission (HRC), Prisoners' Rights Office (PRO), Disability Rights Vermont, or Disability Law Project;
- Any officer of a court (Judge and Clerks of Court); or
- A victim advocacy organization approved by DOC.

As used in this Rule, "security threat group" (STG) means a group or association of three or more persons who may have a common identifying sign, symbol, or name and who individually

or collectively engage in, or have engaged in, criminal activity or other disruptive behaviors that could create an atmosphere of fear and intimidation or compromise safety and security.

As used in this Rule, “sexually explicit” means a pictorial depiction of actual or simulated sexual acts, including sexual intercourse, oral sex, or masturbation. Written descriptions of sexual acts are not sexually explicit.

## CRITERIA FOR MAIL

All inmates may send and receive mail, with the following limitations:

1. Inmates shall not correspond with a current DOC employee, volunteer, or contractor for purposes other than DOC business, unless prior authorization is obtained from:
  - a. The Superintendent of the facility in which the inmate is housed; and
  - b. The employee’s Superintendent, supervisor, or manager.
2. Inmates shall not send correspondence containing threatening, harassing, or obscene materials.
3. Inmates shall not send correspondence containing criminal solicitations or furthering a criminal plan.
4. Inmates shall not use the correctional facility address to fraudulently identify themselves as a staff member, agent, or representative of the DOC.
5. Inmates shall not correspond with any prohibited party through a third party.
6. Inmates shall not send for “bill-me-later” or free gift transactions.
7. Inmates shall not send or receive any correspondence containing contraband.
8. Inmates shall not send or receive correspondence written in code.
9. Inmates shall not send or receive correspondence containing unsanitary or hazardous material.
10. Inmates shall not send or receive correspondence that advocates the interest of a security threat group (STG).
11. Inmates shall not send or receive battery-operated greeting cards.
12. Inmates shall not receive correspondence or homemade artwork that has any item affixed to it with glue or other types of adhesives.
13. Inmates shall not receive correspondence with writing or drawings in crayon.
14. Inmates shall not receive nude photographs or sexually explicit drawings.
15. Inmates shall not receive unused envelopes, blank paper, or stamps through correspondence, with the exception that these items may be received through privileged mail, when a response is requested.
16. Inmates shall not send or receive plans for escape or how to introduce contraband.
17. Inmates shall not receive materials that describe procedures for the brewing of alcoholic beverages or the manufacture of drugs.
18. Inmates shall not receive Polaroid-type photos.
19. Inmates shall not receive or send out maps, atlas descriptions, Internet depictions, or drawings that depict the facility or the local geographic region.
20. Inmates shall not send mail that violates any DOC administrative directives or procedure.

## Outgoing Mail

1  
2 All inmates may send outgoing mail. The DOC shall provide a weekly postage allowance for  
3 inmates, up to the postage cost of seven first class stamps. Inmates shall pay any postage costs  
4 above the amount provided by the DOC. Inmates may use more than one stamp at a time during  
5 the course of the week, but an inmate's postage allowance shall not "roll-over" from one week to  
6 the next.

7  
8 The following guidelines apply to outgoing inmate mail:

- 9 1. Staff shall not restrict inmates from sending outgoing mail for disciplinary reasons. This  
10 does not preclude the DOC from limiting an inmate's use of outgoing mail to circumvent no-  
11 contact orders or other victim protections.
- 12 2. Inmates may mail as many letters as they wish, provided they bear the cost of the mailings.
- 13 3. Inmates shall print or type their facility return address on the front, upper-left corner of each  
14 outgoing envelope.
- 15 4. All outgoing inmate mail shall be stamped, on the address side of the envelope or package,  
16 with a notice or disclaimer that the mail is coming from a correctional facility.
- 17 5. Envelopes of outgoing inmate mail shall not contain drawings that include nudity, are  
18 sexually explicit, or are related to a STG.
- 19 6. Envelopes of outgoing inmate mail shall not contain codes or be written in code.

## 20 21 Incoming Mail

22  
23 All inmates may receive incoming mail. The following guidelines apply to incoming inmate  
24 mail:

- 25 1. There shall be no limit on the amount of incoming mail an inmate may receive, provided that  
26 the mail does not exceed the allowable property limits.
- 27 2. Staff shall not accept any mail that has postage due.
- 28 3. Staff shall remove all stamps and special sticker-type seals from the envelope of incoming  
29 mail prior to its delivery to the recipient inmate, unless the mail is to be returned to sender.
- 30 4. When the facility has reasonable suspicion of the attempted introduction of contraband  
31 utilizing incoming mail, the Security and Operations Supervisor (SOS) may withhold the  
32 mail from the inmate. In such cases the SOS shall provide the inmate with a photocopy of  
33 the mail.

## 34 35 INSPECTION OF MAIL

### 36 37 Inspection of All Mail

38  
39 The following procedures apply whenever mail is inspected:

- 40 1. Mail that is written in a foreign language shall be retained for translation prior to it being  
41 processed.
- 42 2. If, after inspecting the contents of any piece of mail, it is determined that there was no  
43 violation of this rule, DOC policies, or law, and that sending or receiving it would not  
44 threaten the safety, security, or order of the facility or any person, the mail shall be processed  
45 and distributed without delay.

- 1 3. If, after inspecting the contents of any piece of mail, it is determined that there was a  
2 violation of this rule, DOC policies, or law, or that sending or receiving it would threaten the  
3 safety, security, or order of the facility or a person, the mail may be confiscated or returned to  
4 the sender.  
5

6 **Inspection of Outgoing Mail**  
7

- 8 1. Outgoing mail sent by inmates shall only be read in the following circumstances:  
9 a. Mail sent from one inmate to another;  
10 b. When the Superintendent or designee has reasonable suspicion to believe that the mail  
11 may pose a threat to the safety and security of the facility, staff, inmates, or the public; or  
12 c. When the Superintendent or designee has reasonable suspicion to believe that the mail  
13 may contain contraband.  
14 2. With the exception of inmate-to-inmate mail, outgoing mail sent by an inmate shall not be  
15 opened or read without the express, written authorization of the Superintendent or designee.  
16 a. Such authorization shall be based upon reasonable suspicion that:  
17 i. The provisions of this rule or any DOC policy has been violated;  
18 ii. Any applicable State or federal law has been violated; or  
19 iii. The mail threatens the safety, security, or order of a correctional facility, or the  
20 safety or wellbeing of any person.  
21 b. The written authorization shall detail the specific facts forming the basis for the decision  
22 to inspect the mail.  
23 3. If, after inspecting the contents of any piece of mail, it is determined that there was a  
24 violation of this rule, DOC policies, or law, or that sending it would threaten the safety,  
25 security, or order of the facility or a person:  
26 a. The outgoing mail shall be confiscated, in cases when:  
27 i. Returning it to the inmate could result in a threat to the safety or security of the  
28 facility or impede an ongoing investigation;  
29 ii. There is evidence that the mail is related to criminal activity. In such cases, the  
30 appropriate law enforcement authority shall be contacted regarding the disposition of  
31 the mail; or  
32 iii. The mail contains contraband. In such cases, the situation it shall be disposed of as  
33 directed in the DOC administrative policy on contraband. The inmate may receive a  
34 disciplinary report (DR), if appropriate.  
35 b. The outgoing mail shall be returned to the inmate, along with a notice indicating the  
36 reason for its return, except as described above.  
37

38 **Inspection of Incoming Mail**  
39

- 40 1. With the exception of inmate-to-inmate mail, incoming inmate mail shall not be read except  
41 when there is reasonable suspicion that the contents may pose a threat to the safety or  
42 security of the facility, staff, inmates, or the public.  
43 2. Staff shall open all incoming inmate mail outside the view of an inmate, except for privileged  
44 correspondence, to inspect for enclosures, including:  
45 a. Contraband;

- b. Cash;
  - c. Checks;
  - d. Money orders; and
  - e. Materials that are sexually explicit or contain nudity.
3. Any items contained in incoming inmate mail (e.g., printed information from the Internet, photocopies, news clippings from a publication with a copyright) shall be deemed to have come from an original source. Staff shall review these items before allowing an inmate to take possession of them, in accordance with the APA Rule on the inmate possession of printed materials and DOC policies.
  4. Staff shall open and inspect any mail that was sent out by an inmate and returned marked "Return to Sender." Staff shall treat the letter as contraband and take precautions to ensure that the letter is not an attempt to bypass inmate-to-inmate correspondence procedures.

## **PRIVILEGED CORRESPONDENCE**

All inmates may send and receive privileged correspondence. Privileged correspondence, sent by or to inmates, shall meet the same requirements and be handled in the same manner as general mail, except as provided below.

In cases when, in the course of inspection of privileged correspondence, staff finds material that does not appear to be privileged, the staff member who opened the mail shall forward all the contents of the correspondence directly to the SOS without further inspection. The SOS shall consult with the Superintendent regarding the ultimate disposition of the mail.

### **Outgoing Privileged Correspondence**

The following guidelines apply to outgoing inmate privileged correspondence:

1. The inmate shall write the words "Privileged Mail" or "Legal Mail" on the front of all envelopes containing outgoing privileged correspondence.
2. Outgoing privileged correspondence may be opened and inspected in the presence of the inmate in cases when the Superintendent or designee has reasonable suspicion to believe that the mail may contain contraband or otherwise violates this Rule.
3. Outgoing privileged correspondence shall not be opened without the inmate present, unless it is necessary to open the correspondence for the sole purpose of determining the identity of the inmate who sent it.

### **Incoming Privileged Correspondence**

The following guidelines apply to incoming inmate privileged correspondence:

1. Incoming correspondence shall be treated as privileged only if it is in an official envelope, with a verifiable return address and from an individual, agency, or organization included in the definition of "privileged correspondence."
2. Incoming privileged correspondence shall not be opened outside the presence of the inmate to whom it was addressed.



3. Privileged correspondence originally sent out of the facility by an inmate, but subsequently returned to the inmate by the postal service, shall be processed as incoming privileged correspondence. Staff shall open such mail in the presence of the inmate to determine the legitimacy of the sender.

## **INMATE-TO-INMATE CORRESPONDENCE**

In general, inmates may not correspond through the mail with other inmates. The following circumstances may constitute exceptions to this rule, provided that the facility Superintendent or designee at each facility approves the correspondence:

1. Inmates may communicate with immediate family members who are also inmates in the custody, or under the supervision, of DOC;
2. An inmates may communicate with another inmate in cases when the inmate's classification or treatment team determines that correspondence is in the best interest of both parties;
3. An inmate may communicate with another inmate regarding legal matters, as long as the Superintendent or designee knows the second inmate customarily offers legal advice to other inmates; and
4. Specific inmates may obtain permission to communicate with another specific inmate, at the sole discretion of the facility Superintendent or designee at each facility.

### **Inmate-to-Inmate Correspondence Requests**

Prior to corresponding with another inmate through mail, the inmate must obtain approval from the Superintendents or designees of each facility housing an inmate named in the request. Requests may also be made by a staff member requesting permission on an inmate's behalf.

### **Provisions Related to Inmate-to-Inmate Correspondence**

The following provisions apply to inmate-to-inmate correspondence:

1. Inmate-to-inmate correspondence shall not be sealed until after a designated staff person has reviewed the correspondence.
2. Inmate-to-inmate correspondence is not privileged correspondence.
3. An inmate's permission to correspond with another inmate shall remain in effect, regardless of either inmate's transfer to another facility. Such permission to correspond may only be revoked as set forth below.

### **Withdrawal of Permission to Engage in Inmate-to-Inmate Correspondence**

The Superintendent or designee of a facility which houses an inmate authorized to correspond with another inmate may withdraw such authorization in the following circumstances:

1. One or both inmates have violated facility or departmental rules;
2. The basis for the request no longer applies, or has been determined to have been erroneous or deceptive; or
3. The safety, security, or order of a facility may be jeopardized by continued correspondence.

**NEGATIVE CONTACT LIST**

The DOC shall maintain a negative contact list for each inmate, in accordance with 28 V.S.A. § 802. This list shall include the names of individuals who do not wish to receive correspondence from the inmate.

1. Inmates shall not correspond through the mail with any individual on their negative contact lists.
2. An individual may be added to an inmate's negative contact list by notifying the Superintendent, in writing, that they do not wish to receive any correspondence through the mail from the inmate.
3. A minor may be added to the negative contact list of any inmate who is not the child's parent.
  - a. Inmates have the right to correspond through the mail with any child to whom they are a parent, unless the inmate is prohibited by court order from contacting the child.
  - b. To add a child to an inmate's negative contact list, the child's parent or authorized legal guardian must notify the Superintendent, in writing, that they do not wish the child to receive any correspondence through the mail from the inmate.
4. The Superintendent shall be notified by the inmate's assigned Correctional Services Specialist (CSS) of any known court order prohibiting correspondence to or from an inmate.
5. The negative contact list shall be maintained by the Superintendent or designee.

**INDIGENT INMATES**

An inmate who cannot afford to purchase writing materials may submit a request for such materials.

1. The request shall be:
  - a. Approved if the combined balances of the inmate's facility account and any other accessible accounts have been ten dollars or less at all times during the thirty days preceding the request. In doing so, the Business Manager or designee shall deem the inmate indigent;
  - b. Denied when the inmate does not meet the definition of an indigent inmate; or
  - c. Denied, regardless of the inmate's account balances, when the inmate is physically able and permitted to work, but has refused available work for which they would have been paid.
2. When the request is approved, the inmate shall be provided the following materials free of charge:
  - a. The use, or permanent possession, of a pen, if requested;
  - b. Clean, letter-sized (8 ½" x 11") paper; and
  - c. Up to seven envelopes per month.
3. Indigent inmates shall be provided with an reasonably adequate amount of paper and envelopes to enable their access to courts regarding claims concerning fundamental constitutional rights or conditions of confinement.

**FUNDS RECEIVED THROUGH THE MAIL**

1 Inmates are not allowed to retain cash or money in any form, including checks, money orders, or  
2 credit or debit cards while incarcerated.

3 1. Funds or money in any form, sent directly to an inmate through the mail, by the inmate's  
4 friends or family, shall not be accepted. Such funds shall be immediately returned to the  
5 sender.

6 2. Veteran's benefits, Social Security survivor benefits, Indian tribal distribution checks, United  
7 States Treasury checks, and vendor refund checks mailed directly to the inmate at the facility  
8 shall not be deposited using the inmate trust lockbox. Staff shall forward them to the facility  
9 Business Manager.

10 3. When a revenue refund check from a state or federal treasury department is received for an  
11 inmate, staff shall forward it to the facility Business Manager. The Business Manager shall  
12 contact the appropriate revenue department or tax investigator's office to confirm the  
13 legitimacy of the refund.  
14



## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

**Meeting Date/Location:** February 12, 2018, Pavilion Building, 5<sup>th</sup> floor conference room, 109 State Street, Montpelier, VT 05609

**Members Present:** Chair Brad Ferland, Dirk Anderson, Diane Bothfeld, John Kessler, Jen Duggan, and Steve Knudson

**Members Absent:** Clare O'Shaughnessy, Karen Songhurst and Ashley Berliner

**Minutes By:** Melissa Mazza-Paquette

- 2:05 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the January 8, 2018 meeting.
  - Motion made to accept the minutes by Diane Bothfeld, seconded by John Kessler, and passed unanimously.
- Additions/deletions to agenda.
  - #6 on the agenda: Vital Records Rule, Agency of Human Services, Department of Health, is being moved to the March 12, 2018 meeting per their request.
  - Member Kessler requested to add an update from Chair Ferland on Administrative Procedures Act discussion in House Government Operations on February 1, 2018 at 2:30 p.m. Discussion to take place after proposed rules have been heard.
  - Motion made to accept agenda with changes by Diane Bothfeld, seconded by John Kessler, and passed unanimously.
- No public comments made.
- Presentation of Proposed Rules on pages 2-6 to follow:
  1. Required Agricultural Practices Rule for The Agricultural Nonpoint Source Pollution Control Program, The Vermont Agency of Agriculture, Food and Markets, page 2
  2. Fire Safety and Prevention, Agency of Human Services, Department of Corrections, page 3
  3. Inmate Access to Publications, Agency of Human Services, Department of Corrections, page 4
  4. Inmate Mail, Agency of Human Services, Department of Corrections, page 5
  5. Regulations Governing the Operation of Woodside Juvenile Rehabilitation Center, Agency of Human Services, Department for Children and Families, Family Services Division, page 6
  6. Vital Records Rule, Agency of Human Services, Department of Health (moved to the agenda for the March 12, 2018 meeting)
- 2:58 p.m. Diane Bothfeld left the meeting prior to hearing proposed rule #5.
- Update from Chair Ferland on Administrative Procedures Act discussion in House Government Operations on February 1, 2018 at 2:30 p.m.
- Next scheduled meeting is March 12, 2018 at 2:00 p.m.
- Motion made to adjourn by John Kessler, seconded by Dirk Anderson, and passed unanimously.
- 3:17 p.m. meeting adjourned.

**Proposed Rule: Inmate Mail, Agency of Human Services, Department of Corrections**

**Presented by Matthew Nault and Christine Cowart (Gary Dillion in attendance)**

Motion made to accept the rule by Diane Bothfeld, seconded by Jen Duggan, and passed unanimously, with the following recommendations:

1. Public Input Statement, #4: Consider reaching out to the prisoner's rights office.
2. Text: Reconsider replacing with another word the headings 'General Guidelines' and 'Guidelines', as very specific criteria and expectations follow.

DRAFT